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House Bill _____
By _____

Senate No. SB1289
By Holcomb

AN ACT to amend Tennessee Code Annotated, Title 56,
Chapter 7, relative to health insurance for
consumers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Title 56, Chapter 7, is amended by
adding the following as a new section:

56-7-1013 TITLE AND LEGISLATIVE POLICY DECLARATION.

This statute shall be known and may be cited as the Patient Freedom of Choice Act of 1994. The General Assembly declares it to be the policy of the state of Tennessee that patients should have the freedom of choice to select the health care provider of their choice. Further, all health insurance companies and entities providing health care insurance of any kind within Tennessee must not issue insurance policies, plans, agreements, or arrangements which contain terms or conditions that would operate to unreasonably restrict the access and availability of health care services for the insured.

SECTION 2. Definitions. As used in this Article, the following definitions apply:

(a) "Health care services" means health care services or products rendered or sold by a provider within the scope of the provider's license or legal authorization. The term includes, but is not limited to, hospital, medical, surgical, dental, vision and pharmaceutical services or products.

(b) "Insurer" means any health or disability insurance company, health service corporation, or similar entity which is licensed by this State to issue policies or subscriber contracts that reimburse for expenses of health care services.

(c) "Insured" or "beneficiary" means any individual or patient entitled to reimbursement for expenses of health care services under a policy, subscriber contract, or similar agreement issued or administered by any insurer. This definition includes, without limitation, an individual entitled to reimbursement for expenses of health care services under a program where such individual has an incentive to utilize the services of a provider which has entered into an agreement or arrangement with an administrator.

(d) "Provider" or "health care professional" means an individual or entity duly licensed or legally authorized to provide medical treatment services, including any person licensed under Tennessee Code Annotated Title 63, Chapters 6 or 9 as now or hereafter amended.

(e) "Health care plan" means any arrangement whereby any person or entity regulated by Chapters 7, 19, 26, 27, 28, 29, or 32 of Title 56 undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services.

SECTION 3. (a) On and after the effective date of this Act, all insurance policies, plans, and contracts and all health care plans issued for delivery to policy holders in, or regulated by, this state which provide health care coverage for the diagnosis or treatment of any illness or injury to the human body shall provide each person benefiting from the coverage the freedom of choice to seek treatment from any health care professional the person chooses, except as provided for in subdivision (b) (2) of this section.

(b) (l) No insurance policies, plans, or contracts and no health care plans issued for delivery to policy holders in, or regulated by, this state which provide health care coverage for the diagnosis or treatment of any illness or injury to the human body

shall limit participation in the policy or plan to only those health care professionals selected by the insurer.

(2) Notwithstanding subsection (a) above, if a health care plan provides a method of registration by which any health care professional or provider may register to participate in the plan, the health care plan may exclude any health care professional or provider who has not registered. Furthermore, the health care plan may exclude any health care professional or provider who either refuses to accept the payment schedule prescribed in the plan, or who has been deemed by a federal or state agency to have defrauded other insurance plans (whether private or governmentally issued), or who the insurer reasonably deems to present an undue risk of medical malpractice, based on objective standards as determined and promulgated by the Commissioner of commerce and insurance after notice and comment, to insured persons in the plan.

SECTION 4. No insurance policy, plan, contract, or other health care plan shall prevent or preclude an insured party from obtaining treatment by the insured's choice of health care professional or provider; provided, however, that the insured party agrees to participate in payment of the insurer's approved charge at an amount not to exceed twenty percent (20%) of that approved charge and the insurer shall participate in payment in an amount not to exceed eighty percent (80%) of the approved charge.

SECTION 5. The provisions of this Act shall not be construed to enlarge or otherwise alter the privileges, immunities, or practice rights or the license of any health care professional or provider as defined by the laws of this State.

SECTION 6. (a) The Tennessee commissioner of commerce and insurance shall approve for sale in this state only those insurance policies, plans, and contracts for health care services or those health care plans which conform to the provisions of this Act. Companies in Tennessee, who are self-insured or who operate self-funded programs for their employees, are not required to conform to this Act, as they are not

regulated by the Tennessee department of commerce and insurance under ERISA (Employee Retirement Security Act of 1974, 29 USC § 1001 to 1461).

(b) The Tennessee commissioner of commerce and insurance shall promulgate rules and regulations to require all insurers and other companies, regulated by Chapter 7 of Title 56 of the Tennessee Code Annotated offering health care policies, plans, or contracts to comply with this Act. The regulations shall also include required coverage, by insurers, for those preventive medical and screening examinations as may be promulgated in rulemaking pursuant to the requirements of Title 56.

(c) The Tennessee commissioner of commerce and insurance shall promulgate rules and regulations to require all insurers and other persons and companies regulated by Chapter 7 of Title 56 of the Tennessee Code Annotated offering health care policies, plans, or contracts to notify all insured persons regarding the charges as authorized by this Act.

SECTION 7. (a) Except as otherwise provided in this Act, the provisions of this Act shall apply to all insurance policies, plans, and contracts and all health care plans providing health care benefits to persons with illnesses or injuries delivered or issued for delivery in this state on or after the effective date of this Act.

(b) The provisions of this Act shall apply to all insurance policies, plans, and contracts and all health care plans providing health care benefits to persons with illnesses and injuries delivered or issued for delivery before the effective date of this Act when the insurer next has the right to refuse to renew the policy or plan or to change the premium, or one (1) year after the effective date of the Act, whichever is earlier.

(c) The provisions of this Act shall not apply to the health care benefits of persons covered by the state and federal Medicaid and Medicare programs.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 9. This Act shall take effect on becoming a law, the public welfare requiring it.